

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejection of the application are respectfully requested in view of the remarks herewith.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-9 are pending. Claims 1, 8 and 9 are independent.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-9 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,781,435 to Holroyd, et al. (hereinafter, merely "Holroyd") in view of U.S. Patent No. 4,272,790 to Bates (hereinafter, merely "Bates") and further in view of U.S. Patent No. 6,144,798 to Nagasawa (hereinafter, merely "Nagasawa").

III. RESPONSE TO REJECTIONS

The Office Action has failed to make a *prima facie* case that the claims are unpatentable.

As indicated previously, Nagasawa is disqualified as §103 prior art to the present application under the provisions of 35 U.S.C. §103(c). Under the provisions of 35 U.S.C. §103(c), subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) and (g) of 35 U.S.C. §102, shall not preclude patentability under §103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person or organization.

Nagasawa and the present application were, at the time the present invention was made, subject to an obligation of assignment to the same organization, i.e., Sony Corporation. Such obligation is evidenced by the recording of assignment documents in the U.S. Patent and Trademark Office.

Accordingly, Nagasawa is disqualified as prior art in a rejection under 35 U.S.C. §103(a); and thus all of the outstanding rejections based upon Nagasawa in the above-noted Office Action are overcome.

Therefore, Applicants respectfully submit that claims 1-9 are patentable.

Applicants respectfully submit that Nagasawa was improperly used as a basis of rejection in the Office Action dated September 19, 2006, as pointed out by Applicants' response filed December 18, 2006. The following Office Action mailed March 12, 2007 used Bates in combination with Holroyd. Thus, Applicants respectfully submit that the claims are patentable and respectfully request early allowance of the present application.

CONCLUSION

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing remarks, all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 

Thomas F. Presson
Reg. No. 41,442
(212) 588-0800